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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,152	04/26/2006	Kazuyuki Iida	290230U/SOX PCT	1280
22850	7590	03/12/2010		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER MULCAHY, PETER D				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
03/12/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/577,152

**Applicant(s)**

IIDA ET AL.

**Examiner**

Peter D. Mulcahy

**Art Unit**

1796

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 4, 5, 8, 9 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 7, 10, 12 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 6, 7, 10, 12 and 13 are rejected under 35 U.S.C. 102(b) or (e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Abe et al. US 5,082,888 or Koizumi et al. US 5,082,889 or Sugita et al. US 2006/0199891.
4. Claims 1-3 are **no longer** rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2003-183459 or Sobajima et al. US 5,747,576 as set forth in the paper mailed 6/25/09.

5. The instantly claimed invention is directed to a "resin composition for a seamless air bag cover or a resin composition for a seamless instrument panel having an air bag cover which comprises (A) 50 to 90% by mass of polypropylene, (B) 0 to 20% by mass of a thermoplastic elastomer and (C) 10 to 30% by mass of talc, wherein the talc has an average particle diameter of 15 to 25  $\mu\text{m}$  and a distribution of a particle diameter such that a content of particles having a diameter of 5  $\mu\text{m}$  or smaller is 10% by mass or smaller and a content of particles having a diameter exceeding 40  $\mu\text{m}$  is 10% by mass or smaller."

6. Initially, it should be noted that the claim language "for a seamless air bag cover or a resin composition for a seamless instrument panel having an air bag cover" is an intended use or mental step. As such, any resin composition that can function as a seamless air bag cover or a seamless instrument panel having an air bag cover, anticipates this claim limitation. The fact that the art may not mention the end use of the composition being a seamless air bag cover or a seamless instrument panel having an air bag cover is not germane to the patentability of the claimed composition.

7. The Abe et al. patent exemplifies polypropylene resin compositions having talc with an average particle size of 19.5  $\mu\text{m}$  and at least 90% of the particles are  $\geq 5 \mu\text{m}$ , see table I "D". The disclosure at column 3 lines 45-50 suggests not less than 85% of the particles have the  $\geq 5 \mu\text{m}$ . There are no particles identified as having a size  $\geq 40 \mu\text{m}$ . As such it is reasonable to presume that the % of these particles is less than 10%. Given this disclosure, the claimed limitations are anticipated. In the event one having ordinary skill would not immediately envisage each of the claimed limitation, then the

claims are rendered prima facie obvious from this disclosure. Each of the claimed limitations is discussed and suggested to be employed in combination. Further, any property limitation not specifically reported in the patent is anticipates and/or obvious. The composition disclosed can have the same compositional components used in the same amounts and ratios. As such, it is reasonable to presume that these compositions necessarily possess properties that anticipate and/or render obvious those claimed.

8. The Koizumi et al. patent exemplifies polypropylene resin compositions having talc with an average particle size of 1.8  $\mu\text{m}$  see column 6 lines 18. The disclosure at column 3 lines 53-70 suggests average particle sizes of 20  $\mu\text{m}$ . When one incorporates talc having an average particle size of 20  $\mu\text{m}$  there is no disclosure of any particles having a size of less than 5  $\mu\text{m}$ . As such it is reasonable to presume that the % of these particles is less than 10%. Further, there are no particles identified as having a size  $\geq 40 \mu\text{m}$ . As such it is reasonable to presume that the % of these particles is less than 10%. Given this disclosure, the claimed limitations are anticipated. In the event one having ordinary skill would not immediately envisage each of the claimed limitation, then the claims are rendered prima facie obvious from this disclosure. Each of the claimed limitations is discussed and suggested to be employed in combination. Further, any property limitation not specifically reported in the patent is anticipates and/or obvious. The composition disclosed can have the same compositional components used in the same amounts and ratios. As such, it is reasonable to presume that these compositions necessarily possess properties that anticipate and/or render obvious those claimed.

9. The Sugita et al. document exemplifies polypropylene resin compositions having talc with an average particle size of 20  $\mu\text{m}$  see table 1. The disclosure at [0069] suggests average particle sizes of 20  $\mu\text{m}$ . When one incorporates talc having an average particle size of 5  $\mu\text{m}$  to 25  $\mu\text{m}$  there is no disclosure of any particles having a size of less than 5  $\mu\text{m}$ . As such it is reasonable to presume that the % of these particles is less than 10%. Further, the art teaches away from particles having a size  $\geq 40 \mu\text{m}$ . As such it is reasonable to presume that the % of these particles is less than 10%. Given this disclosure, the claimed limitations are anticipated. In the event one having ordinary skill would not immediately envisage each of the claimed limitation, then the claims are rendered prima facie obvious from this disclosure. Each of the claimed limitations is discussed and suggested to be employed in combination. Further, any property limitation not specifically reported in the patent is anticipates and/or obvious. The composition disclosed can have the same compositional components used in the same amounts and ratios. As such, it is reasonable to presume that these compositions necessarily possess properties that anticipate and/or render obvious those claimed.

#### ***Response to Arguments***

10. Applicant's arguments filed 10/26/09 directed to the rejection over Sugita et al. have been fully considered but they are not persuasive. Specifically applicants argue that "the cited art does not disclose a talc that 'has an average particle diameter of 15 to 25  $\mu\text{m}$  and a distribution of a particle diameter such that a content of particles having a diameter of 5  $\mu\text{m}$  or smaller is 10% by mass or smaller and a content of particles having a diameter exceeding 40  $\mu\text{m}$  is 10% by mass or smaller.' Instead, at best, Sugita

discloses a platey inorganic filler having an average particle diameter that is preferably from 5 to 25  $\mu\text{m}$ . In paragraph [0070] talc is provided as one of several examples of the platey inorganic filler. Notwithstanding Sugita's generic description of average particle diameter, the cited reference does not disclose a talc having the particle diameter distribution required by present Claim." This is not persuasive.

11. The disclosure at [0069] suggests average particle sizes of 20  $\mu\text{m}$ . When one incorporates talc having an average particle size of 5  $\mu\text{m}$  to 25  $\mu\text{m}$  there is no disclosure of any particles having a size of less than 5  $\mu\text{m}$ . As such it is reasonable to presume that the % of these particles is less than 10%. Further, the art teaches away from particles having a size  $\geq 40 \mu\text{m}$ . As such it is reasonable to presume that the % of these particles is less than 10%. Given this disclosure, the claimed limitations are anticipated. In the event one having ordinary skill would not immediately envisage each of the claimed limitation, then the claims are rendered prima facie obvious from this disclosure. Each of the claimed limitations is discussed and suggested to be employed in combination. Further, any property limitation not specifically reported in the patent is anticipates and/or obvious. The composition disclosed can have the same compositional components used in the same amounts and ratios. As such, it is reasonable to presume that these compositions necessarily possess properties that anticipate and/or render obvious those claimed.

12. The allegations of unexpected results have been fully considered. These do not rebut the anticipation rejections of record. Further, with respect to the obviousness rejection, there remains no showing of unexpected results that compare the closest

prior art with the scope of the claimed invention. Specifically, the showing contains runs showing a single talc species representing the invention. The talc used in this run does not represent the scope of the claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter D. Mulcahy whose telephone number is 571-272-1107. The examiner can normally be reached on Mon.-Fri. 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter D. Mulcahy/  
Primary Examiner, Art Unit 1796